

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ATHENA KENNER,

Plaintiff,

-against-

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

23-CV-9421 (LTS)

TRANSFER ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff Athea Kenner, proceeding *pro se*, brings this action seeking review of the Commissioner of Social Security’s decision denying her application for disability benefits under the Social Security Act, 42 U.S.C. §§ 405(g), 1383(c)(3). For the following reasons, the Court transfers this action to the United States District Court for the Eastern District of New York.

An action filed pursuant to 42 U.S.C. §§ 405(g), 1383(c)(3) may be brought only in “the district court of the United States for the judicial district in which the plaintiff resides, or has his principal place of business, or, if he does not reside or have his principal place of business within any such judicial district, in the United States District Court for the District of Columbia.” 42 U.S.C. § 405(g); *see* § 1383(c)(3) (“The final determination of the Commissioner of Social Security after a hearing under [§ 1383(c)(1)] shall be subject to judicial review as provided in section 405(g).”).

Plaintiff alleges that she resides in Brooklyn, which is in Kings County, New York. (ECF 1 at 1, 3.) Because Plaintiff resides outside this district, venue is not proper in this court under §§ 405(g) or 1383(c)(3). Kings County is within the Eastern District of New York. *See* 28 U.S.C. § 112(c). Accordingly, venue of this action is proper in the Eastern District, *see* 42 U.S.C. §§ 405(g), 1383(c)(3). The Court therefore directs that this action be transferred, pursuant to 28 U.S.C. § 1406(a), to the United States District Court for the Eastern District of New York.

CONCLUSION

The Clerk of Court is directed to transfer this action to the United States District Court for the Eastern District of New York. 28 U.S.C. § 1406(a). Whether Plaintiff should be permitted to proceed further without payment of fees is a determination to be made by the transferee court. A summons shall not issue from this Court. This order closes the case in the Southern District of New York.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: October 30, 2023
New York, New York

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
Chief United States District Judge